



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,891	09/23/2003	Kenneth Lathrop	20339.14	3601

49358 7590 02/06/2006

CARLTON FIELDS, PA
1201 WEST PEACHTREE STREET
3000 ONE ATLANTIC CENTER
ATLANTA, GA 30309

EXAMINER

PANDYA, SUNIT

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/668,891	LATHROP ET AL.	
	Examiner	Art Unit	
	Sunit Pandya	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/23/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

Acknowledgment is made of applicant's Oath/Declaration meets the standard required by 35 U.S.C. 25 & 115.

Claim Objections

Claim 9, line 8 is objected to because of the following informalities: "o f" should be changed to "of". Appropriate correction is required.

Claim 26, line 11 is objected to because of the following informalities: "n umber" should be changed to "number". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,6-16,18-27 & 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Illinois State Lottery Department ("pick 3" gaming method implemented 1989, "pick 4" gaming method implemented 1991).

Claim 1: State Lottery discloses of an Indicia game method for accepting entry from plurality of players, wherein each entry comprises of predetermined number of entry numbers to be picked by the players. The state determines the outcome of the lottery games by drawing or selecting random winning numbers, and comparing the

Art Unit: 3714

drawn winning numbers with the entry numbers picked by the players to determine whether each entry is a winning entry or not (pages 2&10).

Claim 2: State lottery dept. discloses a lottery game for plurality of players where, the predetermined number of entry number is three. The said game is referred to by the lottery dept. as "pick 3" (page 2).

Claims 3, 4, 7, 8, 13, 24 & 25 : The state lottery dept. discloses comparing the entry numbers, with the winning numbers, regardless of the order, which the gaming commission refers to as "Boxing" or "box" (pages 4&5). Box betting indicates the bet on all combinations of the chosen or entered number, regardless of the order of the digits; in order to obtain a winning jackpot the winning numbers should appear regardless of the order. State lottery also discloses comparing the order of the entry number with the exact order of the winning number, which is referred to as "Straight" (pages 4&5). In order to obtain the winning jackpot, all the numbers should appear in the exact order.

Claims 6, 9, 22 & 23: State lottery dept. discloses offering players a progressive jackpot prize, to win the jackpot all of the multi-digit entry numbers should match the winning numbers. The number could match regardless of the order or in "box" format, or could match in "straight" format (page 10).

Claim 10: State lottery dept. discloses a betting game where each of the multi-digit entry numbers comprises of three digits. This gaming method is referred to by the state lottery dept. as "Pick 3" (page 2).

Art Unit: 3714

Claim 11: State lottery dept. discloses a betting game where each of the multi-digit entry numbers comprises of four digits. This gaming method is referred to by the state lottery dept. as "Pick 4" (page 2).

Claims 12, 15 & 16: State lottery dept. discloses drawing winning numbers depending on the game types. For the game of "pick 3", there are three winning numbers drawn, for the game of "pick 4", there are four winning numbers drawn (pages 2&4).

Claims 14, 18-21: State lottery dept. allows the players to specify comparison for entry numbers with the winning number. The winning jackpot is based on the comparison types, "straight and/or box" (pages 4&5). For "straight" the entry number should appear in the exact order as the winning number, for "box" the entry number should appear regardless of the order.

Claim 26: State Lottery dept. discloses of accepting an entry from plurality of players, wherein each entry comprises of predetermined number of multi-digit entry numbers. The state determines the outcome of the lottery games by drawing or selecting random winning numbers, and comparing the drawn winning numbers with the multi-digit entry numbers to determine whether each entry is a winning entry or not (page 2&10).

Claim 27: State lottery dept. discloses a betting game where each of the multi-digit entry numbers comprises of three digits. This gaming method is referred to by the state lottery dept. as "Pick 3" (page 2).

Claim 29: State lottery dept. discloses a betting game where each of the multi-digit entry numbers comprises of four digits. This gaming method is referred to by the state dept. as "Pick 4" (page 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 17, 28, 30 & 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Illinois State Lottery Department ("pick 3" gaming method implemented 1989, "pick 4" gaming method implemented 1991).

Claims 5, 17 & 31: State lottery dept. discloses a multi-state lottery where plurality of states sponsors the lottery and combine the winning jackpots. However the drawing for the winning numbers is held in one of associated states, instead of dividing the drawings in different states.

At the time the invention was made, it would have been obvious matter of design choice to a person of ordinary skill in the art to have allowed for plurality of states to hold the winning drawings, because applicant has not disclosed that having different states pick winning numbers, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with having one state do all the

winning number drawings. Therefore it would have been an obvious matter of design choice to modify the winning number drawing methods by State Lottery dept. to obtain the invention as specified in claims 5, 7 & 31.

Claims 28 & 30: The state lottery dept. discloses comparing the entry numbers, with the winning numbers, regardless of the order, which is referred to as "Boxing" or "box" (pages 4&5). Box betting indicates the bet on all combinations of the chosen or entered number, regardless of the order of the digits; in order to obtain a winning jackpot the winning numbers should appear regardless of the order. State lottery also discloses comparing the order of the entry number with the exact order of the winning number, which is referred to as "Straight" (pages 4&5). In order to obtain the winning jackpot, all the numbers should appear in the exact order. However the State lottery only teaches of a single entry number it does not mention of a specific predetermined order for the digits to appear in the entry numbers.

At the time the invention was made, it would have been obvious matter of design choice to a person of ordinary skill in the art to have three entry numbers as the predetermined number of entry numbers, and to obtain a specific order of digits for each entry numbers, because applicant has not disclosed that having three entry numbers with specific order of digits, compared to one entry number, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well without having a specific order for the digits in the entry numbers, because as mentioned in above rejection, it is regarded as an indicia game. Therefore it would

Art Unit: 3714

have been an obvious matter of design choice to modify state lottery commission methods to obtain the invention as specified in claims 28 & 30.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

PATENT NUMBER	INVENTOR
4273335	Allonsis, Georges
5106089	Wood, Michael
5112050	Koza, John R. et al.
5116049	Sludikoff, Stanley R. et al.
5186463	Marin, Thomas C. et al.
5232221	Sludikoff, Stanley R. et al.
5273281	John G. Lovell
5851010	Feinberg, Isadore
6406019	Joyner, John F. et al.
6416408	Tracy, Joseph J. et al.
6592454	Libby, Budd O. et al.
20030134672	Fulton, Stanley E.
67026668	Banyai, Frank B.
20040102239	Samila, Eliyahu

6783456	White, Michael L.
6830514	Meyer, Mark G. et al.
20050003884	Meyer, Mark G. et al.
20050064930	Jubinvile, Chantal et al.
20050181858	Caro, Gerard et al.

Also, *Scarne's New Complete Guide To Gambling*, by John Scarne, Simon and Schuster publishing, 1974, New York.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunit Pandya whose telephone number is (571) 272-2823. The examiner can normally be reached on M - F: 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Jones can be reached on (571) 272-4438. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Examiner's Declaration

Come now the undersigned and makes this his Examiner's declaration and states as follows:

I am over eighteen years of age and am competent in all respects to enter the testimony contained herein. I make this declaration feely and I have personal knowledge of all facts averred herein.

I have dealt with different gaming methods of Illinois Lottery Department since May 1997.

The gaming methods involved several different methods of game play, including "Pick 3", "Pick 4", "Little Lotto", and "Lotto".

In the said methods, players are required to pick number or request the computer to pick the number for them, those number are then compared with the winning number and winners are awarded depending on comparison between the number picked by the user and the winning numbers drawn.

I hereby declare that all statements made herein of my own knowledge are true and that all statements s made on information and belief are believed to be true; and further that these statements are made with knowledge that willful false statements and the like are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Codes.

This FRIDAY 15th day of JANUARY, 2006



Sumit Pandya
Patent Examiner